

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE TWENTY SECOND DAY OF MARCH
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE B.PRAKASH RAO

WRIT PETITION NO.3651 of 2004 and C.C.No.1527 of 2004

WRIT PETITION NO.3651 of 2004

Between:

G.S. Subhashini Devi, D/o. G.Kucheludu, Hindu, 27 years,
R/o.D.No. 8/19, Ramnagar Street, Kothapet, Kuppam, Chittoor District.

...PETITIONER

AND

The Dravidian University, rep., by its Registrar, Kuppam, Chittoor District.

...RESPONDENT

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a Writ, order or direction more particularly one in the nature of Writ of Mandamus declaring the action of the respondent in not regularizing the services of the petitioner as Assistant-Librarian Grade-II as illegal, arbitrary and in violation of Articles 14 and 21 of the Constitution of India and consequently direct the respondent to regularize the services of the petitioner from the date of initial appointment of the petitioner.

Counsel for the Petitioner: MR.G.VIDYASAGAR

Counsel for the Respondent: MR.M.RAMA RAO

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CONTEMPT CASE NO.1527 of 2004

(Contempt Case U/s. 10 to 12 of Contempt of Courts Act to punish the Respondents herein for violating, disobeying the Order of the High Court dated 14.10.2004 in WPMP No.4800 of 2004 and WVMP No.2164 of 2004 in WP No.3651 of 2004.)

Between:

G.S. Subhashini Devi, D/o G. Kucheludu, 27 years,
R/o D.no.8/19, Ramnagar Street, Kothapet, Kuppam, Chittoor District.

...PETITIONER

AND

Dr. S. Domodar Naidu, s/o Venkatarama Naidu,
Registrar, the Dravadian University, Kupam,
Chittoor District.

...RESPONDENT

Counsel for the Petitioner: MR.G.VIDYASAGAR

Counsel for the Respondent: MR.M.RAMA RAO

The Court made the following:

THE HON'BLE MR JUSTICE B.PRAKASH RAO

WRIT PETITION NO.3651 of 2004 and C.C.No.1527 of 2004

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COMMON ORDER:

Heard Sri G.Vidyasagar, the learned counsel appearing for the petitioner and Sri M.Rama Rao, the learned Standing Counsel appearing for the respondent, in both the cases.

The petitioner, who has been working as an Assistant in the Dispatch Division of the respondent-University, filed this Writ Petition, *inter alia*, seeking a writ of Mandamus to declare the action of the respondent in not regularizing her services in the post of the Library Assistant Grade-II as illegal, arbitrary and violation of Articles 14 and 21 of the Constitution of India.

The case of the petitioner, in brief, is that she was initially appointed on 20.09.2001 as a Library Assistant Grade-II on a consolidated pay of Rs.2,400/- per month and subsequently directed to work as Assistant at Dispatch Division with effect from 01.09.2002. Since then, she has been working in the said post all along. Subsequently, as per the proceedings dated 12.02.2004 issued by the Government, permission was granted to fill up various vacant posts, which includes one Library Assistant Grade-II post. She is entitled to be considered for regularization of her services in the post of Library Assistant Grade-II, which has been sanctioned by the Government. Hence, the Writ Petition.

At the time of admission, this Court gave interim direction dated 27.02.2004 in W.P.M.P.No.4800 of 2004 to continue her in service. Thereafter, the respondent filed a counter and also vacate stay application, where under the said interim direction was modified, directing the respondent to pay the existing salary to the petitioner in the post of Assistant only. As the respondent did not comply with the interim direction given by this Court, the petitioner filed a Contempt Case in C.C.No.1527 of 2004.

In both the Writ Petition and the Contempt Case, the respondent filed separate counter-affidavits.

The main crux of the defence in the two counter-affidavits is basically the

denial of the very factum of appointment of the petitioner as Library Assistant Grade-II. According to the respondent, the petitioner was asked to work in the Library on daily wage basis as per the orders of the Vice-Chancellor and therefore, her services were being utilized in the Library on daily wages at Rs.75/- per day on par with other graduates working in other departments of the University. Therefore, the respondent did not continuously engage her for 240 days but she was engaged depending on the workload with several breaks of service. In view of the same, it is stated that the petitioner has no right to seek any relief especially with regard to the post in which she was engaged. Further, it is also pointed out that there were complaints against the petitioner while she was working in Library as well as Dispatch Section alleging that there were no proper dispatches and the copies not being received by the other end. Thereupon, the respondent constituted a Committee to enquire into the allegations alleged against the petitioner. Accordingly, after enquiry, the Committee recommended the following further action to be taken.

- a. To lodge a police complaint in the Police Station;
- b. To write to the agency informing that the office does not require her services;
- c. To arrange to open the table and almirah in the presence of the committee members to facilitate the official work.

Therefore, it is stated that such misbehaviour on the part of the petitioner is highly impermissible to seek any indulgence from this Court especially with regard to Article 226 of the Constitution of India.

At a time when the Contempt Case came up for hearing, it was suggested that the Writ Petition can be disposed of on merits rather than considering the Contempt Case separately. Hence, the Writ Petition was heard along with the Contempt Case and both are being disposed of together by this common order.

Having heard the submissions made on either side and on perusal of the material available on record, the question which crops up for consideration is as to whether the petitioner has any right to seek consideration of her case for a regular appointment or regularizing her services in the post of Library Assistant Grade-II as sanctioned by the Government.

Though according to the petitioner, she was appointed initially on 20.09.2001 as Library Assistant Grade-II on a consolidated pay of Rs.2,400/- per month, thereafter, she was asked to work at Dispatch Division. However, the respondent denied the said fact. The petitioner did not file any appointment order nor there is any material to support her case that she held such post where as the case of the respondent is that she was appointed only on daily wage basis and that too at the instance of the Vice Chancellor and she has not worked for 240 days continuously to make any

claim.

Be that as it may, the fact remains that there is no appointment order forthcoming from the side of the petitioner or even from the side of the respondent to show that there is any such appointment to lay a claim much less to seek any enforcement of any such right. In the absence of any such appointment, the petitioner cannot claim any right to seek regularization much less it cannot be said that the petitioner has got any enforceable right. In view of the same, it is to be held that the petitioner has totally failed to make out *prima facie* case to seek any existence of any right which can be enforced. Even, the petitioner cannot seek any indulgence under Article 226 of the Constitution of India. Further, without going into the other aspects as raised on behalf of the respondent with regard to certain allegations against the petitioner and also the recommendations of the Committee, it is needless to say that the same would not have any bearing on the question involved. This Court refrains from making any comment on the said aspect.

In the circumstances, it is to be held that absolutely there are no merits in the Writ Petition and the same is dismissed. However, it shall be open for the respondent to continue the petitioner on the same lines as she was engaged all along. Having regard to the finding as arrived in the Writ Petition, I do not find any violation much less any willful disobedience of the orders passed by this Court. Hence, no contempt arises and accordingly, the Contempt Case also stands

dismissed.

(B.PRAKASH RAO, J)

22nd March 2005

RRB/Chvn

DEPUTY REGISTRAR

//True Copy//

SECTION OFFICER

Copy To:

1. Dr. S.Damodar Naidu, the Registrar, Dravadian University, Kuppam, Chittoor District.
2. Two CD copies.

